

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 95001

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. Temporary (See 95010)

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

YES ADOPTED BY COMMISSION

AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

For Filing Administrative
Regulations

For Emergency
Regulations Only

Effective Date _____

Expiration Date _____

Governor's Signature

Nevada State Environmental Commission

Classification [] Proposed [] Adopted By Agency [xx] Temporary [xx] Emergency []

Brief description of action: Petition 95001 temporarily amends NAC 445B.001 through 445B.395, to modify effective dates of certain portions of the regulations. This modification in effective dates is necessary because of the six month extension of the approval date of Nevada's Operating Permit Program by the Environmental Protection Agency. In conjunction with these amendments, a few minor amendments were made to allow the Bureau of Air Quality to proceed with a streamlined permitting process, which involves the issuance of one air quality permit to an entire facility rather than individual permits to construct and subsequent operating permits for every single source.

Authority citation other than 233B: NRS 445.461

Notice date: October 10; October 18 and October 26, 1994

Hearing date: November 9, 1994

Date of Adoption of Agency: November 9, 1994

**LEGISLATIVE REVIEW OF ADOPTED TEMPORARY REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 95001**

The following statement is submitted for adopted temporary amendments to Nevada Administrative Code (NAC) Section 445B.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 95001 was noticed three (3) times: 10-10-94, 10-18-94 and 10-26-94 in the Las Vegas Review and Reno Gazette-Journal newspapers. No public comment was received.

2. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. Written comments were received from Barrick Goldstrike Mines prior to the hearing. The comments focused on the need to amend additional citations that would be affected by the timelines imposed by the regulations. These comments were integrated into the regulations.

3. If the regulation was adopted without changing any part of the proposed temporary regulation, a summary of the reasons for adopting the regulation without change.

The temporary regulation was adopted at the State Environmental Commission hearing on November 9, 1994. Written and public comments from Barrick Goldstrike Mines resulted in minor technical changes and clarifications to the adopted temporary regulation.

4. The estimated economic effect of the adopted temporary regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

- a. The adopted temporary amendments to the NAC are expected to have a short-term beneficial effect on the regulated community by delaying the implementation of the air quality operating permit program. This deferral will eventually require a substantial effort on the part of the regulated community to prepare and submit appropriate Title V applications. There is no short-term adverse economic effect, nor any long-term adverse or beneficial economic effect on the regulated community.

Page 2 - SEC Information Statement - Temporary Petition 95001

b. There is no estimated effect on the public, either adverse or beneficial, nor immediate or long-term.

5. The estimated cost to the agency for enforcement of the adopted temporary regulation.

There is no additional cost to the agency for enforcement.

6. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

There are no other state or government agency regulations which the proposed amendments duplicate.

AMENDED AND ADOPTED TEMPORARY REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

Petition 95001

EXPLANATION--Matter in *italics* is new; matter in brackets [] is material to be omitted.

AUTHORITY: NRS 445.461

Section 1. NAC 445B.019 is hereby amended to read as follows:

NAC [445.4415] 445B.019 "Applicable requirement" defined. *Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* "Applicable requirement" means, as applied to an emission unit in a Class I source:

1. Any standard or other relevant requirement:
 - (a) Provided in NRS 445.401 to 445.601, inclusive, and NAC [445.430] *445B.001 to [445.846] 445B.395*, inclusive;
 - (b) Provided in the applicable implementation plan approved or adopted by the EPA pursuant to 42 U.S.C. §§ 7401-7515, inclusive;
 - (c) For a hazardous air pollutant adopted pursuant to 42 U.S.C. § 7412, including any requirement regarding the prevention of accidental releases;
 - (d) For a program to control acid rain adopted pursuant to 42 U.S.C. §§ 7651-7651o, inclusive;
 - (e) For enhanced monitoring or for compliance certification adopted pursuant to 42 U.S.C. § 7413(a)(3) or 7661c(b);
 - (f) For solid waste incineration units adopted pursuant to 42 U.S.C. § 7429;
 - (g) For consumer and commercial products or tank vessels adopted pursuant to 42 U.S.C. § 7511b; and
 - (h) For the protection of stratospheric ozone adopted pursuant to 42 U.S.C. §§ 7671-7671q, inclusive, unless the administrator determines that such provisions are not required in an operating permit;
2. A new source performance standard adopted pursuant to 42 U.S.C. § 7411;
3. Any term or condition of any permit issued pursuant to the requirements of 42 U.S.C. §§ 7401-7515, inclusive, including provisions regarding the prevention of significant deterioration of air quality and new source review; and
4. Any national ambient air quality standard or requirement regarding increments or visibility adopted pursuant to 42 U.S.C. §§ 7470-7492, inclusive, as the standard applied to a temporary, portable source for which the owner or operator has applied for an obtained an operating permit pursuant to NAC [445.707] *445B.300* and [445.7145] *445B.331*.

Sec. 2. NAC 445B.034 is hereby amended to read as follows:

NAC [445.4615] 445B.034 "Class I-A application" defined. *Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* "Class I-A application" means an application for a Class I operating permit that is required for any existing source which is subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive.

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

Sec. 3. NAC 445B.035 is hereby amended to read as follows:

NAC [445.4625] 445B.035 "Class I-B application" defined. *Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* "Class I-B application" means an application for a Class I operating permit that is required for any new source or significant modification to an existing source which is subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive.

Sec. 4. NAC 445B.036 is hereby amended to read as follows:

NAC [445.4635] 445B.036 "Class I source" defined. *Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* "Class I source" means any source which is subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive.

Sec. 5. NAC 445B.037 is hereby amended to read as follows:

NAC [445.4645] 445B.037 "Class II source" defined. *Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* "Class II source" means any source which is not subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive, but which is otherwise subject to the requirements of NAC [445.430] 445B.001 to [445.846] 445B.395, inclusive.

Sec. 6. NAC 445B.066 is hereby amended to read as follows:

NAC [445.506] 445B.066 "Existing source" defined. "Existing source" means:

1. For sources subject to 42 U.S.C. § 7412, any stationary source other than a new source.
2. For all other sources, a stationary source which was constructed, or for which the owner or operator submitted a complete application for **[a permit to construct,] an operating permit**, before the effective date of the program.

Sec. 7. NAC 445B.103 is hereby amended to read as follows:

NAC [445.548] 445B.103 "Monitoring device" defined. *[Effective until November 15, 1994.] Effective until approval of the program by the administrator of the United States Environmental Protection Agency.* "Monitoring device" means the total equipment required under provisions governing the monitoring of operations in NAC [445.430] 445B.001 to [445.944] 445B.601, inclusive, used to measure and record, if applicable, process parameters.

NAC [445.548] 445B.103 "Monitoring device" defined. *[Effective November 15, 1994.] Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* "Monitoring device" means the total equipment required under provisions governing the monitoring of operations in NAC [445.430] 445B.001 to [445.944] 445B.601, inclusive, used to measure and record, if applicable, process parameters.

Sec. 8. NAC 445B.108 is hereby amended to read as follows:

NAC [445.550] 445B.108 "New source" defined. "New source" means:

1. For sources subject to the requirements of 42 U.S.C. § 7412, a stationary source for which the owner or operator commenced construction or reconstruction after the administrator proposed regulations pursuant to 41 U.S.C. § 7412 which established an emission standard applicable to the source.
2. For all other sources, a stationary source or modification for which an owner or operator has not submitted a complete application for **[a permit to construct] an operating permit** before the effective date of the program.

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

Sec. 9. NAC 445B.187 is hereby amended to read as follows:

NAC [445.628] 445B.187 "Stationary source" defined. [Effective until November 15, 1994.] *Effective until approval of the program by the administrator of the United States Environmental Protection Agency.* "Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant and which contains any one or a combination of the following:

1. Affected facilities;
2. Existing facilities; and
3. Facilities for which no standards have been adopted.

NAC [445.628] 445B.187 "Stationary source" defined. [Effective November 15, 1994.] *Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* "Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant that is regulated under 42 U.S.C. §§ 7401 to 7671q, inclusive, or NAC [445.430] 445B.001 to [445.846] 445B.395, inclusive.

Sec. 10. NAC 445B.227 is hereby amended to read as follows:

NAC [445.664] 445B.227 Equipment for controlling pollution: Operation; removal or modification. [Effective until November 15, 1994.] *Effective until approval of the program by the administrator of the United State Environmental Protection Agency.* Except as provided in NAC [445.430] 445B.001 to [445.846] 445B.395, inclusive, no person may:

1. Operate any source of air pollution unless the necessary or required equipment for controlling the pollution is installed and operating.
2. Disconnect, alter or remove any necessary or required equipment for controlling pollution or modify any necessary or required procedure.

NAC [445.664] 445B.227 Prohibited conduct: Operation of source without required equipment; removal or modification of required equipment; modification of a required procedure. [Effective November 15, 1994] *Effective upon approval of the program by the administrator of the United State Environmental Protection Agency.* Except as otherwise provided in NAC [445.430] 445B.001 to [445.846] 445B.395, inclusive, no person may:

1. Operate a source of air pollution unless the control equipment for air pollution which is required by applicable requirements or conditions of the permit is installed and operating.
2. Disconnect, alter, modify or remove any of the control equipment for air pollution or modify any procedure required by an applicable requirement or condition of the permit.

Sec. 11. NAC 445B.233 is hereby amended to read as follows:

NAC [445.668] 445B.233 Excess emissions: Determination of violation. [Effective until November 15, 1994.] *Effective until approval of the program by the administrator of the United State Environmental Protection Agency*

1. The director shall determine from the submission of data and information required in subsection 5 of NAC [445.667] 445B.232 or other information available to him that no violation occurred if:
 - (a) The excess emission was the result of a routine startup or shutdown for purposes of controlling production;
 - (b) The amount and duration of the excess emissions were minimized to the extent practicable during the period of startup or shutdown; and
 - (c) Any one of the following conditions existed:
 - (1) The effluent gas could not be passed through the equipment for controlling pollution without causing severe property damage.

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

(2) The effluent gas could not be passed through the equipment for controlling pollution without causing severe upset of the process.

(3) The excess emission was the result of igniter smoke which could not be controlled by the equipment for control used for normal operation.

2. If the owner or operator misrepresents facts or fails to disclose facts of which he had prior knowledge, the director shall deem that the period of excess emissions violates NAC [445.430] *445B.001* to [445.846] *445B.395*, inclusive.

3. Nothing in this section limits the obligation of the owner or operator of the source to attain and maintain the standards for ambient air quality promulgated in NAC [445.843] *445B.391* or the authority of the director to institute actions under sections 113 and 303 of the Clean Air Act or to exercise his authority under NRS 445.401 to 445.601, inclusive.

12. The following Nevada Administrative Code are to remain in effect until approval of the program by the administrator of the United States Environmental Protection Agency: NAC [445.671] *445B.238*, [445.672] *445B.239*, [445.673] *445B.240*, [445.674] *445B.241*, [445.675] *445B.242*, [445.676] *445B.243*, [445.677] *445B.244*, [445.678] *445B.245*, [445.679] *445B.247*, [445.680] *445B.248*, and [445.681] *445B.250*.

Sec. 13. NAC 445B.271 is hereby amended to read as follows:

NAC [445.6945] *445B.271* Use of alternative method or equivalent method to determine compliance with permit. *To become effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* An alternative method or an equivalent method may be used to determine compliance with a standard, requirement or condition for a permit that is required pursuant to 42 U.S.C. §§7401 to 7671q, inclusive, if it is first approved by the administrator.

Sec. 14. NAC 445B.273 is hereby amended to read as follows:

NAC [445.695] *445B.273* Schedules for compliance. [Effective until November 15, 1994.] *Effective until approval of the program by the administrator of the United State Environmental Protection Agency*

1. All new and existing sources must comply with NAC [445.430] *445B.001* to [445.846] *445B.395*, inclusive. Existing sources are in compliance with those sections and may continue to operate under the provisions of their approved compliance schedules, which may be amended from time to time.

2. Compliance schedules must contain specific progress steps that will be taken toward achieving compliance.

3. The commission may require periodic reports on each phase of progress under approved compliance schedules. Failure at any phase to make diligent and reasonable progress toward compliance with the approved compliance schedule is an unreasonable delay and subjects the operator of the source to administrative fines as provided in NAC [445.699] *445B.281*.

4. In approving compliance schedules, the commission will take into consideration the social and economic effect of the schedule, including, but not limited to, its effect on the availability of fuels, energy, transportation and employment.

Sec. 15. NAC 445B.289 is hereby amended to read as follows:

NAC [445.7042] 445B.289 Class I-A application for Class I operating permit: Filing requirement. *To become effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* An owner or operator must file a Class I-A application and obtain a Class I operating permit for:

1. An existing major source;
2. An existing major source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the source is subject only to the requirements of 42 U.S.C. § 7412(r);
3. An existing major source in a category of sources designated by the administrator pursuant to 42 U.S.C. § 7661a(a);
4. An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § 7429(e); or
5. An affected source.

Sec. 16. NAC 445B.290 is hereby amended to read as follows:

NAC [445.7044] 445B.290 Class I-B application for Class I operating permit: Filing requirement. *To become effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* An owner or operator must file a Class I-B application and obtain a Class I operating permit before commencing the construction, reconstruction or modification of:

1. A proposed new major source;
2. A proposed significant modification to an existing source;
3. A proposed new source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the source is subject only to the requirements of 42 U.S.C. § 7412(r); or
4. A proposed new source which is included in a category of sources designated by the administrator pursuant to 42 U.S.C. § 7661a(a).

Sec. 17. NAC 445B.291 is hereby amended to read as follows:

NAC [445.7046] 445B.291 Class II operating permits: Filing requirements; applicability of certain provisions. *To become effective upon approval of the program by the administrator of the United States Environmental Protection Agency.*

1. An owner or operator of any source that is not subject to the requirements of NAC [445.7042] 445B.289 or [445.7044] 445B.290 shall submit an application for and obtain a Class II operating permit. For a proposed new source or a proposed modification to an existing source that is not subject to the requirements of NAC [445.7042] 445B.289 or [445.7044] 445B.290, an owner or operator shall file an application and obtain a Class II operating permit before commencing construction.

2. If an owner or operator of an existing source that is not subject to the requirements of NAC [445.7042] 445B.289 or [445.7044] 445B.290 has not applied for and obtained an operating permit before the effective date of the program, he shall file an application for an operating permit within 12 months after the effective date of the program. Filing such an application does not relieve the owner or operator of legal responsibility for his failure to obtain a permit to construct or an operating permit pursuant to NAC [445.704] 445B.287 or [445.712] 445B.318, respectively, as these provisions existed before the effective date of the program

3. If an owner or operator of an existing source that is not subject to the requirements of NAC [445.7042] 445B.289 or [445.7044] 445B.290 has applied for and obtained an operating permit before the effective date of the program, he shall file an application for renewal of the operating permit at least 30 days before the date on which the current operating permit expires.

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

4. The following provisions of NAC [445.707] *445B.300* do not apply to Class II operating permits.
- (a) Public notice;
 - (b) Notice to the EPA and affected states;
 - (c) Veto of the operating permit by the EPA; and
 - (d) Petitions to the administrator.
5. The director shall apply the provisions of 40 C.F.R. §§ 60.7, 60.14 and 60.15, as adopted pursuant to NAC [445.6605] *445B.221* when determining whether a proposed action or actions at a Class II source constitute a modification or reconstruction.

Sec. 18. NAC 445B.295 is hereby amended to read as follows:

NAC [445.7054] *445B.295* Contents of application for operating permit: General requirements; additional requirements for Class I and Class II operating permits. *To become effective upon approval of the program by the administrator of the United States Environmental Protection Agency.*

1. An application for an operating permit must include:
 - (a) Information to identify the applicant, including the name and address of the company or the name and address of the plant if different from that of the company, the name of the owner of the company and his agent and the name and telephone number of the manager of the plant or another appropriate person to contact;
 - (b) A description of the source's processes and products by Standard Industrial Classification Code, including any processes and products associated with an alternative operating scenario identified by the owner or operator;
 - (c) A description of the fuels, fuel use and raw materials to be used and the rates of production and operating schedules for each emission unit which is a part of the source;
 - (d) An identification and a description of any equipment for the control of air pollution and any devices or activities for monitoring compliance with emission limitations;
 - (e) Limitations on the operation of the source or any standards for work, practices which affect emissions for all regulated pollutants at the source;
 - (f) An explanation of any proposed exemption from any applicable requirement;
 - (g) The location of any records that the applicant must keep pursuant to the requirements of the operating permit, if the records are kept at a location other than the emitting facility; and
 - (h) Other specific information that the director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.
2. In addition to the information required pursuant to subsection 1, an application for a Class I operating permit must include:
 - (a) Descriptions of all emissions of any pollutants for which the source is major and all emissions of regulated air pollutants from all emission units;
 - (b) An identification and a description of all points of emissions and all activities which may generate emissions of the air pollutants described in paragraph (a) in sufficient detail to establish the basis for the applicability of standards and fees;
 - (c) The emission rate described in tons per year and in such terms as are necessary to establish compliance using the applicable standard reference test method;
 - (d) Any other information required by any applicable requirement;
 - (e) The calculations on which the information in subsection 1 and this subsection are based;
 - (f) A citation of and a description of all applicable requirements;
 - (g) A reference to any applicable test method used for determining compliance with each applicable requirement; and
 - (h) A compliance plan that contains, with respect to all applicable requirements, each of the following:

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

(1) A narrative description of the compliance status of the source.

(2) A compliance certification by a responsible official of the source, stating that the owner or operator must comply in a timely manner with any new applicable requirement that becomes effective during the term of the operating permit. This certification must include a description of the test methods and the requirements for monitoring, enhanced monitoring, recordkeeping and reporting that the source will use to comply with the new applicable requirement, fuel use, the rate of production, raw materials and operating schedules which are used to determine the compliance status of the source.

(3) If the source is not in compliance with any applicable requirements at the time of the issuance of the operating permit, a narrative description and a schedule for achieving compliance which includes remedial measures to be taken, an enforceable sequence of actions with milestones and certified progress reports that must be submitted every 6 months. This schedule must be at least as stringent as that contained in any consent decree rendered by a federal court, a court of this state or an administrative order which applies to the source.

(4) A schedule for the submission of compliance certifications during the term of the operating permit that provides for the submission of certifications at least annually or more frequently if required by an applicable requirement or the director.

3. In addition to the information required pursuant to subsections 1 and 2, a Class I-B application for a Class I operating permit must contain:

(a) For a proposed new major source or a proposed significant modification to an existing source which is subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, as adopted pursuant to NAC **[445.605] 445B.221**:

(1) All information required by 40 C.F.R. § 52.21; and

(2) Any other information that the director determines is necessary to process the application.

(b) For a proposed new major source or a proposed significant modification to an existing source which is not subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality:

(1) All information required by NAC **[445.708] 445B.308** to **[445.711] 445B.313**, inclusive;

(2) Any other information that the director determines is necessary to process the application; and

(3) For sources subject to the provisions regarding new source review set forth in 42 U.S.C. §§ 7501-7515, inclusive, all information required by 42 U.S.C. § 7503.

(c) For a proposed new major source or a proposed significant modification to an existing source which is subject to the requirements of 42 U.S.C. § 7412 regarding hazardous air pollutants:

(1) All information required by NAC **[445.708] 445B.308** to **[445.711] 445B.313**, inclusive, and **[445.719] 445B.341**; and

(2) Any other information that the director determines is necessary to process the application.

4. In addition to the information required pursuant to subsection 1, an application for a Class II operating permit must contain:

(a) A description of all emissions of regulated air pollutants;

(b) An identification and a description of all points of emissions and all activities which may generate emissions of the air pollutants described in paragraph (a); and

(c) The emission rate described in tons per year and in such terms as are necessary to establish enforceable conditions of the operating permit.

Sec. 19. NAC 445B.296 is hereby amended to read as follows:

NAC [445.7056] 445B.296 Contents of application for operating permit: Requests for inclusion of additional provisions. *To become effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* If an applicant for an operating permit requests the inclusion of:

1. Provisions for alternative operating scenarios, the application must:
 - (a) Define each scenario;
 - (b) Demonstrate that each scenario will comply with each applicable requirement or relevant requirement of NAC [445.430] 445B.001 to [445.846] 445B.395, inclusive;
 - (c) Contain proposed conditions of the permit which will ensure compliance with any applicable requirements, including a requirement for contemporaneous log entries each time the source changes from one scenario to another; and
 - (d) Contain any additional information that the director determines is necessary to process the application.
2. A federally enforceable emissions cap, the application must:
 - (a) State each applicable requirement that the applicant seeks to avoid;
 - (b) Demonstrate that the applicant will comply with any applicable requirements that the applicant does not avoid with the federally enforceable emissions cap;
 - (c) Contain proposed conditions of the operating permit which will ensure compliance with any applicable requirement; and
 - (d) Contain any additional information that the director determines is necessary to process the application.
3. A provision regarding trading increases and decreases of emissions pursuant to a federally enforceable emissions cap, as set forth in subsection 2, the application must contain:
 - (a) Proposed replicable procedures and conditions of the operating permit that ensure that the trades of emissions are quantifiable and enforceable; and
 - (b) Any additional information that the director determines is necessary to process the application.

Sec. 20. NAC 445B.287 is hereby amended to read as follows:

[445.704] 445B.287 Operating permits: General requirements; restriction on transfer.

1. Unless exempted pursuant to NAC [445.705] 445B.293, a separate operating permit *or permit to construct* is required for each new and existing source. A separate modification of an operating permit is required for each modified source. An owner or operator must obtain an operating permit or modification of an operating permit, before the commencement of construction or alteration of any source of an air contaminant.
2. An operating permit may not be transferred from one owner or piece of equipment to another. An owner or operator may apply for an administrative amendment reflecting a change of ownership or the name of the source for the effective time remaining on the original permit pursuant to NAC [445.7122] 445B.319.

Sec. 21. NAC 445B.300 is hereby amended to read as follows:

NAC [445.707] 445B.300 [Permits to construct] *Operating Permits: Prerequisite; application; issuance or denial; expiration; revocation and reissuance.* [Effective until November 15, 1994.] *Effective until program approval by U.S. EPA.*

1. A separate [permit to construct] *operating permit* is required for each new or modified [single] source.
2. Requests for issuance of a permit or the replacement of a lost or damaged permit must be submitted to the director on the application form provided by him. **[One-half of the fee for an initial operating permit must accompany the application.] *The application filing fee for issuance of a permit or the \$200 fee for replacement of a lost or damaged permit must accompany the application.***

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

3. Except as otherwise provided in NAC [445.7072] *445B.301*, within 10 working days after receiving an application for a permit, the director shall determine if any additional information is needed. Within 30 days after receiving adequate information, the director shall make a preliminary determination to issue or deny a permit. The director shall give preliminary notice of his intent to issue or deny the permit for a single source within 30 days after receiving adequate information for reviewing the application.

4. Except as otherwise provided in NAC [445.7072] *445B.301*, the director's review and preliminary intent to issue or deny **[a permit to construct] an operating permit** for: contaminant per year; or

(b) A proposed modification which will increase the emissions by more than 1 ton per year at an existing stationary source that has the potential to emit greater than 100 tons of an air contaminant per year, must be made public and maintained on file with the director during normal business hours at 123 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located at a site specified in a prominent advertisement by the director for 30 days to enable public participation and comment. All comments on the director's review and preliminary intent for issuance or denial must be submitted in writing to the director within 30 days after the public announcement.

5. Except as otherwise provided in NAC [445.7072] *445B.301*, within 90 days after receiving adequate information, pursuant to NAC [445.708] *445B.308* to [445.711] *445B.313*, inclusive, the director shall issue or deny the application for a permit. The director shall make his decision by taking into account written public comments on the director's review and preliminary intent for issuance or denial, information submitted by proponents of the project and the effect of such a facility on the maintenance of the ambient air quality standards contained in NAC 445.843 and the control strategy contained in the air quality plan.

6. Except as otherwise provided in NAC [445.7072] *445B.301*, **[a permit to construct] an operating permit** only expires if construction of a new or modified source is not commenced within 1 year after the date of issuance thereof or construction of the facility is delayed for 1 year after initiated.

7. **[A permit to construct] An operating permit** may be revoked by the director upon his determination that there has been a violation of any of the provisions of NAC [445.430] *445B.001* to [445.846] *445B.395*, inclusive, or any of the provisions of 40 C.F.R. § 52.21 or 40 C.F.R. Part 60 or 61 which have been adopted by reference in NAC [445.6605] *445B.221*.

8. The revocation is effective 10 days after the service of a written notice, unless the holder of the permit requests a hearing.

9. A permit that has been revoked may be reissued if the holder of the permit submits a new application, with the appropriate fee, to the director. An environmental review of the **[single]** source must be conducted by the director as though construction has not yet commenced.

[445.707] 445B.300 Operating permits: Action on applications; expiration. [Effective November 15, 1994.]
Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.

1. Except as otherwise provided in this subsection and NAC [445.7073] *445B.303*, within 60 calendar days after the official date of submittal of an application for a Class I operating permit or for the modification of such an operating permit, the director shall determine if any additional information is needed. For a Class I-B application, the official date of submittal of all information required by NAC [445.7054] *445B.295* is the date on which the director determines that the information required pursuant to the provisions regarding the prevention of significant deterioration of air quality or for preconstruction review is complete. Within 30 days after receiving a Class I-B application for a Class I operating permit or for the modification of such operating permit, the director shall determine whether any additional information is needed to process the portion of the application in writing if any additional information is needed. Unless the director requests additional information or otherwise notifies the applicant that the application is incomplete within 60 days after

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

the official date of submittal, the application shall be deemed complete. Within 180 calendar days after receiving adequate information, the director shall make a preliminary determination to issue or deny the operating permit or the modification of the operating permit. The director shall give preliminary notice of his intent to issue or deny the operating permit or the modification of the operating permit within 180 calendar days after receiving adequate information for reviewing the application.

2. Within 10 working days after the official date of submittal of an application for a Class II operating permit or a modification of a Class II operating permit, the director shall determine if any additional information is needed. Within 30 days after receiving adequate information to review the application, the director shall make a preliminary determination to issue or deny such an operating permit or the modification of such an operating permit and give preliminary notice of his determination to the applicant.

3. The director's review and preliminary intent to issue or deny a Class I operating permit and the proposed conditions for the operating permit must be made public and maintained on file with the director during normal business hours at 123 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located for 30 calendar days to enable public participation and comment and a review by any affected states.

4. The director shall:

(a) Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the source is located or in a state publication designed to give general public notice;

(b) Provide written notice to:

(1) Persons on a mailing list developed by the director, including those persons who request in writing to be included on the list; and

(2) Any affected state;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public and affected states;

(d) Provide a copy of the director's review of the application, the director's preliminary intent to issue or deny the operating permit and the proposed operating permit to the administrator; and

(e) Establish a 30-day period for public comment.

5. The notice must identify:

(a) The affected facility and the name and address of the applicant;

(b) The name and address of the authority processing the operating permit;

(c) The activity or activities involved in the operating permit and the emissions change involved in any modification of the operating permit;

(d) The name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the operating permit, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the operating permit and which are relevant to the determination of the issuance of the operating permit; and

(e) A brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

6. All comments on the director's review and preliminary intent for issuance or denial must be submitted in writing to the director within 30 calendar days after the public announcement. The director shall give notice of any public hearing at least 30 days before the date of the hearing. The director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

7. Except as otherwise provided in subsection 8 and NAC [445.7073] 445B.303, within 12 months after receiving a complete application, the director shall issue or deny the application for an operating permit or for a modification of the operating permit. The director shall make his decision by taking into account written comments from the public, affected

states and the administrator and the comments made during public hearings on the director's review and preliminary intent for issuance or denial, information submitted by proponents of the project and the effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC [445.843] *445B.391* and the control strategy contained in the air quality plan. The director shall send a copy of the final permit to the administrator.

8. For sources subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, adopted pursuant to NAC [445.6605] *445B.221*, the director shall issue or deny an application for an operating permit, or for the modification or renewal of such an operating permit, within 12 months after receiving a complete application.

9. The director shall not issue an operating permit, or a modification of or a renewal of an operating permit, if the administrator objects to its issuance in writing within 45 days of the administrator's receipt of the proposed conditions for the operating permit and the necessary supporting information, including all public comments submitted during the period allowed for public comment, or made during the public hearing.

10. Any person may petition the administrator to request that he object to an operating permit as provided in 40 C.F.R. § 70.8(d).

11. If the administrator objects to the issuance of an operating permit of his own accord or in response to a public petition, the director shall submit revised proposed conditions for the operating permit in response to the objection within 90 days.

12. An operating permit or the modification of an operating permit for a new or modified source, other than a source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if construction is not commenced within 1 year after the date of issuance thereof or construction of the facility is delayed for 1 year after initiated.

Sec. 22. NAC 445B.301 is hereby amended to read as follows:

NAC [445.7072] *445B.301* [Permits to construct] *Operating Permits*: provisions applicable to certain permits affected by federal regulations for prevention of significant deterioration of air quality. [Effective until November 15, 1994.] *Effective until approval of the program by the administrator of the United States Environmental Protection Agency.*

The following provisions apply to **[a permit to construct] *an operating permit*** for a new facility regulated by 40 C.F.R. § 52.21 or **[a permit to construct] *an operating permit*** for modifications to an existing major stationary source, as defined by 40 C.F.R. § 52.21:

1. Within 30 working days after receiving an application for **[a permit to construct,] *an operating permit***, the director shall determine whether any additional information is needed. Within 180 days after receiving the additional information, the director shall make a preliminary determination to issue or deny a permit. The director shall give notice of his preliminary intent to issue or deny the permit within 180 days after receiving the additional information for reviewing the application.

2. The director's review and statement of preliminary intent to issue or deny **[a permit to construct] *an operating permit*** must be made public in accordance with the provisions of 40 C.F.R. § 52.21 and maintained on file with the director during normal business hours at 123 West Nye Lane, Carson City, Nevada. The director shall, in a newspaper of general circulation in the general area where the source is located, cause to be published once per week for 3 weeks a notice which contains a summary of his preliminary intent to issue or deny the permit. The notice must also include the address of the place where interested persons may review the complete written version of the director's review and statement of preliminary intent. The director shall accept all comments from the public regarding the review and

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

preliminary intent for a 30-day period beginning on the date of the final publication of the notice. All comments on the director's review and preliminary intent for issuance or denial which are not made at a public hearing on the subject must be submitted in writing to the director during this period.

3. Within 180 days after the close of the 30-day period for public comment, the director shall issue or deny the application for **[a permit to construct] an operating permit**. The director shall make his decision by taking into account:

- (a) The written comments so submitted;
- (b) The comments made by the members of the public during public hearings on the director's review and preliminary intent for issuance or denial;
- (c) Any comments submitted on behalf of the United States Environmental Protection Agency;
- (d) The information submitted by proponents of the project; and
- (e) The effect of such a facility on the maintenance of the ambient air quality standards contained in NAC **[445.843] 445B.391**.

4. Except as otherwise provided in this subsection, a permit issued pursuant to subsection 3 becomes effective 30 days after the issuance of the director's final determination. Any appeal of the director's decision pursuant to subsection 3 must be filed with the director within 30 days after the issuance of the director's final determination. If such an appeal is filed, the permit does not become effective unless and until the director thereafter declares its effectiveness.

5. **[A permit to construct] An operating permit** only expires if:

- (a) Construction of a new facility or modifications to an existing major stationary source are not commenced within 18 months after the date of issuance thereof; or
- (b) In accordance with the provisions of 40 C.F.R. § 52.21, construction of a new facility or modifications to a major stationary source are delayed for 18 months after the construction or modifications are initiated.

Sec. 23. NAC 445B.303 is hereby amended to read as follows:

NAC [445.7073] 445B.303 Operating permits: Initial periods for action on applications. *To become effective upon approval of the program by the administrator of the United States Environmental Protection Agency.*

1. During the first 3 years of the program, the times set forth in subsections 1 and 7 of NAC **[445.707] 445B.300** for the issuance of an operating permit do not apply to Class I-A application.

2. The director shall:

- (a) Issue Class I operating permits for one-third of the applications received from existing sources each year for 3 years.
- (b) Issue Class I operating permits for all affected sources no later than December 31, 1994.
- (c) Process Class I-B applications and applications for Class II operating permits in accordance with the times set forth in NAC **[445.707] 445B.300**.

Sec. 24. NAC 445B.306 is hereby amended to read as follows:

NAC [445.7077] 445B.306 Class I operating permits: Prerequisites to issuance, modification or renewal. *Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.* The director may issue a Class I operating permit, or a modification of or a renewal of a Class I operating permit, if:

1. The director has:

- (a) Received a complete application for a Class I operating permit or for a modification or a renewal of a Class I operating permit;
- (b) Except as otherwise provided in NAC **[445.7122] 445B.319**, **[445.7124] 445B.320** and **[445.7126] 445B.321**, completed all requirements regarding public participation and comment pursuant to NAC **[445.707] 445B.300**; and
- (c) Notified and responded to all comments from affected states;

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

2. The conditions of the operating permit provide for compliance with all applicable requirements; and
3. The administrator has received a copy of the proposed operating permit, any necessary supporting information and any notices to the public and affected states required pursuant to NAC [445.707] 445B.300, and has not objected to the issuance of the operating permit within 45 days after receipt of the proposed operating permit.

Sec. 25. NAC 445B.310 is hereby amended to read as follows:

NAC [445.709] 445B.310 Environmental evaluation: Applicable sources. [Effective until November 15, 1994.] *Effective until approval of program by U.S. EPA.* An applicant for [a permit to construct,] an operating permit, *a modification to an operating permit*, or a request for a change of location for:

1. A new or modified stationary source, located at the same facility, which emits, or has the potential to emit greater than 25 short tons of an air contaminant per year;
2. A portable source, relocating at a facility, which emits or has the potential to emit greater than 25 short tons of an air contaminant per year; or
3. Upon written notice from the director, any other source or combination of sources, shall submit with the application an environmental evaluation.

Sec. 26. NAC 445B.313 is hereby amended to read as follows:

NAC [445.711] 445B.313 Method for determining heat input. [Effective until November 15, 1994.] *Effective until approval of the program by the administrator of the United States Environmental Protection Agency.* For the purposes of determining the effects on the quality of ambient air pursuant to NAC [445.708] 445B.308 to [445.711] 445B.313, inclusive, the heat input is the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel-burning units in a plant or on the premises must be used to determine the maximum amount of an air contaminant which may be emitted.

NAC [445.711] 445B.313 Method for determining heat input. [Effective November 15, 1994.] *Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.*

1. For the purposes of determining the effects of Class II sources on the quality of ambient air pursuant to NAC [445.708] 445B.308 to [445.711] 445B.313, inclusive, the heat input is the aggregate heat content of all combusted fuels, or the guaranteed maximum input of the manufacturer or designer of the equipment, whichever is greater. The total heat input of all fuel-burning units in a plant or on the premises must be used to determine the maximum amount of an air contaminant which may be emitted.

2. For the purposes of determining the effects of Class I sources on the quality of ambient air and determining the applicability of a federally enforceable standard or requirement to an emission unit, the heat input will be determined by using the appropriate method of the American Society for Testing Materials (ASTM) contained in 40 C.F.R. Parts 51, 52, 60 and 61.

Sec. 27. NAC [445.7112] 445B.315, [445.7114] 445B.316, [445.7116] 445B.317, [445.7124] 445B.320, [445.7126] 445B.321, and [445.7128] 445B.322, are hereby amended to become effective upon approval of the program by the administrator of the United States Environmental Protection Agency.

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

Sec. 28. NAC 445B.318 is hereby amended to read as follows:

NAC [445.712] 445B.318 Operating permits: Prerequisite; application; issuance or denial; posting. *[Effective until November 15, 1994.] Effective until approval of the program by the administrator of the United States Environmental Protection Agency.*

1. A separate operating permit is required for each new or existing **[single]** source. **[Possession of a valid permit to construct is a prerequisite to obtaining the initial operating permit for a new source.]**
2. Application for the issuance of an **[initial]** operating permit or a replacement for a lost or damaged operating permit must be submitted in writing to the director on the exact form provided by him.
3. An operating permit must be granted if the director finds from a stack emission test or other appropriate test and other relevant information that use of the source will not result in any violation of the air quality regulations or the provisions of 40 C.F.R. § 52.21 or 40 C.F.R. Parts 60 and 61, Prevention of Significant Deterioration, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants adopted by reference in NAC **[445.6605] 445B.221**.
4. A denial of an application for an operating permit must be accompanied by a statement of the reasons therefor, and if the director has relied in his decision upon information not contained in the application, the statement of reasons must identify and state the substance of such information.
5. Operating permits must be posted conspicuously at or near the **[single]** source.

Sec. 29. NAC 445B.323 is hereby amended to read as follows:

NAC [445.713] 445B.323 Operating permits: Renewal. *[Effective until November 15, 1994.] Effective until approval of the program by the administrator of the United States Environmental Protection Agency.*

1. Operating permits must be renewed 5 years after the date of issuance.
2. Requests for the renewal of an operating permit must be submitted, in writing, to the director with the appropriate fee at least 30 calendar days before the expiration date of the current permit.
3. If a request is submitted at least 30 calendar days before the expiration of the current permit, the source may continue to operate until the permit is renewed. If a request is submitted less than 30 calendar days before the expiration of the current permit, the single source must cease operation when the permit expires, and may not recommence the operation until the permit is renewed or until the source receives written authorization from the director to continue operation. If authorization to continue operation is given, the source must comply with all applicable standards and restrictions contained in NAC **[445.430] 445B.001 to [445.846] 445B.395**, inclusive, and all restrictions contained on the expired operating permit.
4. The fee for each renewed operating permit is as specified in the fee schedule contained in NAC **[445.7145] [445.7135] 445B.327**.

NAC [445.713] 445B.323 Operating permits: Renewal. *[Effective November 15, 1994.] Effective upon approval of the program by the administrator of the United States Environmental Protection Agency.*

1. Operating permits must be renewed 5 years after the date of issuance.
2. A completed application for renewal of an operating permit must be submitted, in writing, to the director on the form provided by him with the appropriate fee at least 180 calendar days, but no earlier than 18 months, before the expiration date of the current permit for Class I sources, or at least 30 calendar days before the expiration date of the current permit for Class II sources.
3. Applications for renewal must comply with all requirements for the issuance of an initial operating permit.
4. If an application for renewal is submitted at least 180 calendar days before the expiration of the current permit for

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by *[]* brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

Class I sources, or at least 30 days before the expiration of the current permit for Class II sources, the source may continue to operate until the permit is renewed or the application for renewal is denied. The continued operation of the source must comply with the conditions of the expired permit. If a request is not submitted in a timely manner, the source may be required to cease operation when the permit expires, and may not recommence the operation until the permit is renewed.

5. The fee for the renewal of an operating permit is as specified in NAC [445.7135] *445B.327*.

Sec. 30. NAC [445.7131] *445B.325* and [445.7133] *445B.326* are hereby amended to become effective upon approval of the program by the administrator of the United States Environmental Protection Agency.

Sec. 31. NAC 445B.327 is hereby amended to read as follows:
NAC [445.7135] *445B.327* Operating permits: Fees for initial permit.

1. The fee for an operating permit, a significant modification of a permit or a renewal of a permit for all sources is \$250 per application. An applicant must pay the entire fee when he submits an application to the director.
2. Fees based on emissions for a new or an existing source or for any significant modification to an existing source are as follows:
 - (a) From July 1, 1994, to and including June 30, 1995, the fee is \$ 3.36 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year.
 - (b) From July 1, 1995, to and including June 30, 1996, the fee is \$7.25 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year.
 - (c) On and after July 1, 1996, the fee is \$9 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year.
3. To determine the fees set forth in subsection 2:
 - (a) Emissions must be calculated using:
 - (1) The emission unit's actual operating hours, rates of production and in place control equipment;
 - (2) The types of materials processed, stored or combusted; and
 - (3) Data from a test for emission compliance, continuous emission monitor, the most recent published version of US EPA publication number AP-42, or other emission factor or methods which the director has validated; or
 - (b) If paragraph (a) does not apply to a source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that source.
4. Annual fees for services and maintenance are as follows:
 - (a) From July 1, 1994, to and including June 30, 1995:
 - (1) For facilities which have more than 1 ton of emissions per year:

<u>Type of Source</u>	<u>Fee per permitted source</u>
Sources within major group 49 - power	
Power generation units	\$2,850
Power generation related sources	175
Other sources within major group 49	175
 Sources within major group 10 - mining	 175

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

Sources within major group 14 and 16 - Aggregate/Concrete	75
Other sources	125

(2) For facilities which have less than 1 ton of emission per year, each facility shall pay \$350.

(b) From July 1, 1995, to and including June 30, 1996:

(1) For facilities which have more than 1 ton of emissions per year:

<u>Type of Source</u>	<u>Fee per permitted source</u>
Sources within major group 49 - power	
Power generation units	\$5,920
Power generation related sources	355
Other major source within group 49	355
Sources within major group 10 - mining	355
Sources within major group 14 and 16 - Aggregate/Concrete	150
Other sources	275

(2) For facilities which have less than 1 ton of emissions per year, each facility shall pay \$700.

(c) On and after July 1, 1996:

(1) For facilities which have more than 1 ton of emissions per year:

<u>Type of Source</u>	<u>Fee per permitted source</u>
Sources within major group 49 - power	
Power generation units	\$6,850
Power generation related sources	425
Other sources within major group 49	425
Sources with major group 10 - mining	425
Sources within major group 14 and 16 - aggregate/concrete	175
Other sources	325

(2) For facilities which have less than 1 ton of emissions per year, each facility shall pay \$750.

5. The annual fee for a permit for a surface area disturbance is \$450 for 5 acres or more.

6. The fee for the modification of a facility requiring a new for a stationary source, including the location of portable equipment on a site with permitted stationary equipment, is the same fee as is required for an operating permit

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

as set forth in subsection 1.

7. The department shall calculate and collect all fees based on emissions and fees for services and maintenance beginning on July 1, 1994, and on each July 1st thereafter.

8. Annual fees for operating permits are due and payable to the "Nevada State Treasurer, Environmental Protection" within 45 days after the date of the invoice.

9. As used in subsection 4, "major group" means the major groups described in the "Standard Industrial Classification Manual", as adopted by reference in NAC **[445.6605] 445B.221**.

(Note: This section was amended by Petition 94011, LCB R-062-94, on May 26, 1994. This section incorporates the changes as effective on July 1, 1994 by Section 1 of the petition)

Sec. 32. NAC 445B.333 is hereby amended to read as follows:

NAC [445.715] 445B.333 Operating permits: Revocation and reissuance. [Effective until November 15, 1994.] *Effective until approval of the program by the administrator of the United States Environmental Protection Agency.*

1. An operating permit may be revoked if the control equipment is not operating.
2. An operating permit may be revoked by the director upon determining that there has been a violation of NAC **[445.430] 445B.001** to **[445.846] 445B.395**, inclusive, or the provisions of 40 C.F.R. § 52.21, or 40 C.F.R Part 60 or 61, Prevention of Significant Deterioration, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants adopted by reference in NAC **[445.6605] 445B.221**.
3. The revocation is effective 10 days after the service of a written notice, unless a hearing is requested.
4. To reissue a revoked operating permit, the holder of the revoked permit must file a new application with the director, accompanied by the fee for an initial operating permit as specified in NAC **[445.7135] 445B.327**. An environmental review of the single source must be conducted as though construction had not yet commenced.

Sec. 33. NAC 445B.335 is hereby amended to read as follows:

NAC [445.7155] 445B.335 General permits. *To become effective upon approval of the program by the administrator of the United States Environmental Protection Agency.*

1. The director may issue a general permit covering numerous similar sources.
2. A general permit must set forth the criteria by which sources may qualify for the general permit.
3. A general permit which covers sources that would otherwise be required to be covered by a Class I operating permit must:
 - (a) Ensure compliance with all applicable requirements; and
 - (b) Not be granted until the requirements for public participation and comment and a review by any affected states and the administrator pursuant to NAC **[445.707] 445B.300** have been completed.
4. If the administrator does not object within 45 days after receiving a proposed general permit which covers sources that would otherwise be required to apply for a Class I operating permit, the general permit becomes effective at the end of the 45-day period. If the administrator objects to the general permit, the general permit becomes effective when the objection is resolved.
5. After the effective date of a general permit, the owner or operator of any source that meets the criteria set forth in the general permit may request authority to operate under the general permit. The request must be in writing and must include all the information required by the general permit.
6. The director shall grant or deny authority to operate under a general permit within 30 days after his receipt of a request

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

for such authority. The director's decision to grant or deny an application for authority to operate under the terms of a general permit is not subject to the requirements of NAC [445.707] *445B.300*.

7. A person may challenge the provisions of a general permit only at the time the general permit is issued. The director's grant or denial of authority to operate under a general permit to a source or sources does not provide an opportunity for an administrative review or a judicial review of the general permit.

8. The director shall not grant authority to operate under a general permit to an affected source.

9. The term of a general permit is 5 years.

10. The authority to operate under a general permit expires after 5 years. An owner or operator of a source operating under the authority of a general permit shall apply to renew his authority to operate under the general permit at least 30 days before his authorization expires.

11. A source which obtains authorization to operate under a general permit but is later determined not to qualify under the conditions of the general permit may be subject to an action enforcing the prohibition against operating without a permit.

Sec. 34. NAC 445B.336 is hereby amended to read as follows:

NAC [445.7165] *445B.336* Requests to alter restrictions on permits. **[Effective until November 15, 1994.] *Effective until approval of the program by the administrator of the United States Environmental Protection Agency.*** A request for an alteration of any restriction on a permit relating to emissions, including but not limited to limits on emissions, operating hours and throughput of a permitted source, must be accompanied by:

1. An application for **[a new permit to construct] *a new operating permit***; and
2. The environmental evaluation required by NAC [445.709] *445B.310* for **[a permit to construct] *an operating permit***.

Sec. 35. NAC 445B.343 is hereby amended to read as follows:

NAC [445.7191] *445B.343* Development of maximum achievable control technology; establishment of lower emission rates or different criteria.

1. An applicant for **[a Class I] *an*** operating permit or for a modification of or a renewal of **[a Class I] *an*** operating permit must develop the maximum achievable control technology for:

- (a) Any major source of a hazardous air pollutant; and
- (b) Any area source of a hazardous air pollutant, if the administrator has established an emission limitation which applies to that source.

2. The administrator may establish a lower emission rate for the hazardous air pollutant or, in the case of radionuclides, different criteria based on:

- (a) The potency of the air contaminant;
- (b) The persistence of the air contaminant;
- (c) The potential for bioaccumulation;
- (d) Other characteristics of the hazardous air pollutant; or
- (e) Any other relevant factors.

Sec. 36. NAC 445B.365 is hereby amended to read as follows:

NAC [445.734] *445B.365* Fugitive dust.

1. No person may cause or permit the handling, transporting or storing of any material in a manner which allows or may allow controllable particulate matter to become airborne.

2. Except as otherwise provided in subsection 4, no person may cause or permit the construction, repair, demolition or

Petition 95001 is a temporary regulation amended and adopted by the Nevada Environmental Commission on November 9, 1994. The petition is effective as filed with the Secretary of State on November 14, 1994. Please note that NAC chapter 445 has been divided into two parts. The air regulations are now placed in chapter 445B. The citations in this temporary regulation reflect the new by *italics* and the old by [] brackets. The new citations are the Nevada Administrative Codes (NAC) in effect.

use of unpaved or untreated areas without first putting into effect an ongoing program using the best practical methods to prevent particulate matter from becoming airborne. As used in this subsection, "best practical methods" includes, but is not limited to, paving, chemical stabilization, watering, phased construction and revegetation.

3. Except as otherwise provided in subsection 4, no person may disturb or cover 5 acres or more of land or its topsoil until he has obtained **[a permit to construct or] *an operating permit*** for the purpose of clearing, excavating or leveling the land or an operating permit for the deposit of any foreign material to fill or cover the land.

4. The provisions of subsections 2 and 3 do not apply to:

(a) Agricultural activities occurring on agricultural land; or

(b) Surface disturbances authorized by a permit issued pursuant to NRS 519A.180 which occur on land which is not less than 5 acres or more than 20 acres.

Sec. 37. NAC 445B.132 is hereby repealed.

[445.5635] *445B.132* "Permit to construct" defined.

1. "Permit to construct" means that a document issued and signed by the director certifying that:

(a) Adequate empirical data for a single source has been received and constitutes approval of location; or

(b) All portions of NAC [445.707] *445B.300* to [445.711] *445B.313*, inclusive, and any other provisions of NAC [445.430] *445B.001* to [445.846] *445B.395*, inclusive, have been complied with and constitutes approval of location and for construction.

2. The director may place restrictions on a permit to construct if he deems it necessary.]

END OF PETITION 95001